

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

Tuesday, June 5, 2007

9:00 a.m.

Holiday Inn City Centre

Sioux Falls, SD

The meeting was called to order at 9:00 a.m. by Robert Ferrell, MD, president of the Board. Roll call was taken and Board members present were Mary Carpenter, MD, David Erickson, MD, Alex Falk, MD, Robert Ferrell, MD, Brent Lindbloom, DO, Milton Mutch, MD, and James Reynolds, MD. Lay members Mr. Patrick Burchill and Mr. Bernie Christenson were not present. Staff members present were Ms. Margaret Hansen, Mr. Donald Srstka, Mr. H. Adrian Mohr, and Ms. Jane Phalen. Rodney King, PA-C was present in his capacity as a Physician Assistant Subcommittee member.

Guests at the meeting were Sandro Visani, MD; Brian J. Tjarks, MD; Mr. Don Petersen, Daniel Heinemann, MD; Mr. Quinn Stein, Mr. Jay Flannigan, Ms. Kitty Kinsman, Mr. Dan Palmer, PA-C, Ms. Vicki Nafus, PA-C, and Ms. Barbara Smith.

The minutes of the meeting held March 20, 2007 were reviewed and after discussion they were approved.

The Board met with Dr. Sandro Visani who had retired in 1994, and failed to renew his license in 2001. Under the Medical Practices Act, failure of a licensee to renew a license shall constitute a forfeiture of the license. The license then may be reinstated and renewed at the discretion of the board upon the terms and conditions it may require.

Dr. Visani reported to the board that he has worked as a missionary physician in several foreign locations including Uganda and St. Lucia. He explained that he was contacted by a locum tenens staffing organization and would like to reinstate his South Dakota medical license so that he could have that option available to him. He said that it was not his intention to enter into private practice, but that his primary interest was to continue as a missionary physician. He said that he obtained a license in Italy that would allow him to continue his missionary work, but stated it would be more convenient for him to hold a medical license in the United States.

The Board informed Dr. Visani in December 2005 of the conditions it required before it would consider giving him a license. Dr. Visani had been provided with several options including completing refresher or training courses pre-approved by the Board or working for a minimum of six months with a mentor physician. Dr. Visani said that he would be happy to comply with any practical suggestions in order to get his license reinstated but that these options were not reasonable for him to consider. Dr. Visani was informed that an applicant seeking reinstatement of his license had the burden to prove competency with satisfactory evidence and that there was no guarantee that his license would be reinstated.

After discussion, Dr. Carpenter moved that Dr. Visani provide a report, similar to a residency program report, listing his number of cases, complication rates, objective and subjective care, and comments about quality of care and competency from the chairman. The motion was seconded. In discussing the motion, Dr. Falk requested that the report contain the most recent information possible. Dr. Carpenter amended the motion that the report should

contain information from cases performed within the past five years. The amended motion was seconded and approved. The Board directed Dr. Visani to: 1) compile and provide a list of topics, titles, dates, and institution names regarding his foreign presentations; 2) locate a refresher course in order to prepare to take the urology specialty board examinations, both oral and written; 3) take and pass the specialty board examination to become board certified in urology; and 4) engage in a mentorship with other physicians at an academic institution for five months (the one month practice in Uganda can be provided as part of this mentorship). The board staff was directed to send the aforementioned to Dr. Visani as a list that must be completed prior to being considered for reinstatement. At that time, the meeting with Dr. Visani was concluded.

The Board met with Dr. Brian Tjarks and his attorney, Don Petersen. On November 20, 2006, Dr. Tjarks voluntarily agreed to refrain from practice due to his illegal use of controlled substances. Subsequently, he plead guilty to a felony and received a suspended imposition of sentence with supervised probation. Dr. Tjarks requested that the Board allow him to re-activate his medical license under the conditions contained in a stipulation that had been drafted by the Board's investigative committee, which included a requirement placing Dr. Tjarks on probation with the Board for as long as he is the holder of a South Dakota medical license. After discussion, Dr. Erickson moved to modify the stipulation to: 1) change the number of times per week that Dr. Tjarks must attend either Alcoholics Anonymous or Narcotics Anonymous meetings from three times per week to two times per week; and 2) expand the definition of his home community to include Sioux Falls. The motion was approved. the stipulated agreement so amended was approved, and Order of Re-Activation was entered by the Board.

Board member Bernie Christenson and Mr. Adrian Mohr investigated allegations that David Yecha, M.D. was prescribing controlled substances to himself and family members, and was exhibiting signs of diminished capacity. Mr. Christenson met with Dr. Yecha in Arizona, and Dr. Yecha signed a Statement of Cancellation of Medical License and a Statement of Cancellation of DEA License. After discussion, Dr. Lindbloom moved to accept the Order of Cancellation of Dr. Yecha's medical license, the motion was approved, and the Order duly executed.

Discussion was held regarding the request by Anastasios Pappas, MD, for reinstatement of his medical license that he had surrendered to the Board on July 28, 2006. Under the Medical Practices Act, Dr. Pappas was ineligible for reinstatement of his medical license until one year after surrender. After discussion, Dr. Carpenter moved that once all the requirements for reinstatement of the medical license have been received and approved, including his completed application, the license may be issued as soon as practicable after July 28, 2007. The motion was approved.

The Board considered a request from Eugene Cohen, MD, who applied for a license but was unable to provide primary source verification of his post-graduate training because many years had passed since the training and the facility where he completed this training had long since closed. Dr. Cohen is board certified by the American Board of Medical Specialties (ABMS), is actively licensed and in good standing in other states. After discussion and viewing

corroboration from his application file, Dr. Mutch moved to waive the requirement and the motion was approved.

Discussion was held regarding the request from K.V. Narayanan Menon, MD his completed fellowship training and his seven (7) years of practice at Mayo Clinic be accepted as education and training equivalent to the completion of a residency program as required by the Medical Practices Act. The Board's general counsel advised that the Medical Practices Act gives the Board discretion to approve licensure if the applicant presents satisfactory evidence of successful completion of a program and equivalent service in a hospital approved by the Board. After discussion, Dr. Reynolds moved to recognize Dr. Menon's fellowship and practice at the Mayo Clinic and the motion was approved.

Two requests for waiver of the examination requirement for medical licensure were discussed. The Medical Practices Act gives the Board discretion to waive the examination requirements if the applicant is board-certified by a board of the American Board of Medical Specialties (ABMS) and has met all the other requirements for licensure. Both physicians, Meena Arvind, MD and Madhu Potla, MD had obtained ABMS board certification and met all other requirements for licensure. Dr. Lindbloom moved to grant the requests and the motion was approved.

Guests Daniel Heinemann, MD, Quinn Stein, and Jay Flannigan met with the Board to answer questions and to discuss legislation for regulation of genetic counselors. Model legislation was supplied to the Board along with a request for the SDBMOE to regulate Genetic Counselors. Dr. Heinemann indicated that the draft is preliminary, and stressed that the purpose of the regulation would be to assure that genetic counselors are held to a national standard and would be qualified to provide knowledgeable, quality care in South Dakota. Dr. Mutch states that genetics will be an important part of medicine, and Dr. Carpenter stated that standards for supervision must be incorporated into any legislation. The Board was assured that the genetic counselors are not seeking independent practice and they are not opposed to supervision language. Dr. Mutch moved that the Board become the regulating board for the genetic counselors and the motion was approved. Dr. Ferrell directed that a committee consisting of two board members and an appointee from Dr. Heinemann be formed to look over model legislation and report back to the board. Dr. Carpenter and Dr. Lindbloom volunteered to assist board staff and the committee. Dr. Mutch moved to form the exploratory committee and the motion was approved.

The Board held discussion regarding the writing of the administrative rules for physician assistants. Guests for the discussion were Dan Palmer, PA-C, Karen Bumann, PA-C, Vicki Nafus, PA-C, Ms. Kitty Kinsman, and Ms. Barbara Smith. Dr. Ferrell provided background on the formulation of the advisory workgroup he appointed to develop the PA rules. The draft rules were developed on April 25 by the advisory workgroup comprised of representatives from the Medical Association, Academy of Physician Assistants, the physician assistant Board subcommittee, and Dr. Mary Carpenter, Board member.

After an outline of the rule making process, several sections of the draft rules were discussed. In regard to supervision, it was resolved that the draft rule will provide that the

optimal supervision shall occur at least two (2) times per month preferably in person (face to face), but that one (1) of the meetings may be via telecommunication at the discretion of the Board and outlined in the practice agreement. In regard to physician assistant practice locations separate from the physician practice site, it was resolved that the physician will be required to visit the actual location of the PA practice on a quarterly basis to view the location for appropriate standards and to show commitment to the community by seeing patients while at the site, and that the words “while the PA is also present” will be struck from the draft rules. In regard to the termination of the MD/PA practice agreement, it was resolved that the PA is the party responsible for providing the written notification of termination of a practice agreement. In regard to the interview requirement, it was discussed for clarification that the draft rule allows the Board to require an interview for PA applicants if deemed necessary. Further discussion was held regarding draft rules to have current fees accurately recorded for physicians and physical therapists, and continuing education reporting updated for athletic trainers, occupational therapists and occupational therapy assistants. Dr. Carpenter moved to accept the draft rules as discussed and modified, and the motion was approved.

The executive director report was presented and the following items of old business were addressed:

Homebirth: Discussion was held regarding this issue and the Board believes it can not support the issue of homebirth as it is contrary to its mission to protect the public. The Board directed the staff to report this to the Department of Health and the SD Board of Nursing.

FSMB Meeting: The May meeting of the Federation of State Medical Boards (FSMB) included topics such as disruptive physicians, board certification for licensure, continuing education required for physicians re-entering active practice, and the use of lasers. This year, Dr. Carpenter, Dr. Ferrell, Ms. Hansen, and Mr. Srstka attended the meeting. The Board discussed writing a policy or rule for physician re-entry into medical practice after a period of inactivity. Dr. Carpenter discussed a workshop that she attended regarding disruptive physicians and offered that it would be desirable to have some sort of behavioral help program available for physicians with this disruptive behavior. Board members were encouraged to attend future FSMB meetings.

New Licenses: The board has issued 179 licenses since the last board meeting in March 2007.

Renewals: The Spring renewals are currently underway and there has been a positive response to the availability of the renewal forms on the website.

Complaints and Investigations: Board members will continue to be assigned as investigators for viable complaints and other issues.

The following new business items were addressed.

Resident Certificates: An abbreviated application has been developed and is available on the Board website for resident certificate holders who wish to obtain their MD/DO license once they complete their residency program. Discussion was held regarding residents who request a start date of July 2, 2007, and the constraints placed on staff to process licenses to meet the requests. The law requires verification of successful completion of the residency to be received directly from the program prior to obtaining the MD/DO license. Dr. Carpenter said the staff should contact the residency directors and inform them that any resident that requests a start date of July 2, 2007, must submit all their required verifications so that their files will be complete and ready to issue when the original residency completion letter is received in this office.

Board Policy and Procedure: Recent questions from various parties have inquired as to whether there have been recent changes in Board policies. Discussion regarding this was held and it was clarified that there have no changes to the board policies. It was also discussed that ARDS 20:47:02:12 requires all questions to be submitted to the executive secretary in writing, and the staff has developed a web-site address for that purpose.

HPAP: Maria Eining will act as the program director while Mike Coley, director of the Health Professionals Assistance Program (HPAP), is ill.

Financial Report: The financial report was reviewed and approved. Dr. Carpenter moved that a committee be formed to learn how other South Dakota boards address their financial issues. The motion was approved and Dr. Ferrell appointed Mr. Burchill to work with board staff, including Mr. Srstka. Dr. Reynolds moved to accept the executive director report and the motion was approved.

New licenses: Since the last meeting, 179 new licenses have been issued. There was a motion to approve the new licenses and the motion was approved.

Two separate requests for modifications to the scope of practice for certified nurse practitioners (CNPs) were discussed. In regard to the first request, Dr. Reynolds moved to ratify and agree with the SD Board of Nursing decision to deny the request that would allow CNPs to distribute medications. The motion was approved. In regard to the second request, Dr. Lindbloom moved to allow the performance of colposcopy by the CNP, and to submit an annual report regarding the number and outcomes of the procedures. The motion was approved.

There being no further business, the meeting adjourned at 2:15 p.m.

Robert Ferrell, MD
President, SDBMOE